

## **REMARKS**

This application has been reviewed in light of the non-final Office Action mailed on February 18, 2010. Claims 1-21 are pending in the application with Claims 1, 8, 10-13, 16, and 21 being in independent form. By the present amendment, Claims 1, 8, 10-13, 16, and 21 have been amended. No new matter or issues are believed to be introduced by the amendments.

Claims 1, 2, 5-16, and 19-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kuchibhotla et al. (U.S. Patent No. 7,414,989) in view of Dudley et al. (U.S. Patent No. 5,754,754). Applicants respectfully traverse the rejection.

Claim 1, as amended herein, recites, *inter alia*, as follows:

“...the missing data packet being **(i) retransmitted without a delay, (ii) retransmitted with a delay or (iii) disregarded for retransmission.**” (emphasis added)

Kuchibhotla fails to disclose and/or suggest at least “...the missing data packet being (i) retransmitted without a delay, (ii) retransmitted with a delay or (iii) disregarded for retransmission,” as recited in amended independent Claim 1.

At page 5 of the present Office Action, the Examiner stated that Kuchibhotla fails to mention “wherein the REV confirmation message informs the transmitter that a gap exists in a memory of the receiver due to a missing data packet transmitted consecutively before the most recently transmitted data packet.” The Examiner relied on Dudley to cure such deficiencies. However, Dudley does not teach and/or suggest the additional feature of independent Claim 1.

As understood by Applicants, Dudley refers to an error recovery system and method for use in a data communication system in which a sender station transmits information packets with sequentially numbered information to a receiver station. The system includes selective retransmission of information packets which have had errors in transmission based on

the order of transmission of information packets independent of the sequential (sequence) number of the information packets. A list, such as a linked list having a beginning and an end, is provided and, at the time of transmission of information packets, an identification of the transmitted information packet is placed at the end of the list. (Abstract)

Specifically, Dudley states that upon detection of a gap by receiver station 14 it is desirable that the lost data be retransmitted as soon as possible because data is provided to the user applications program of receiver station 14 in byte sequence number order and all correctly received data packets containing data with byte sequence numbers higher than the missing byte sequence number(s) are retained in resequencing buffer 38 until the earlier data is retransmitted and correctly received by receiver station 14 (column 10, lines 29-37).

In contrast, in the present disclosure as recited by the claims, the REV message informs the base station (BA) about the fact that there is a gap in the reception buffer or memory of the mobile station (MS). Once a gap has been determined it is decided whether to retransmit the data package with a delay, without a delay, or merely ignore retransmission altogether.

For example, at [0054] of Applicants' published application (2007/0115894) it is stated that the BA may also delay transmission of D1\* and send it later on. Then, the NDI has to be set according to the rule that the NDI of a new transmission is toggled compared with the previous transmission, which might have been successful or might have been aborted. At [0055] of Applicants' published application (2007/0115894) it is stated that the BA does not re-send any of D1 or D1\*, but ignores the request for retransmission expressed by the REV message and starts the transmission of a new data packet along with the same NDI, as would be used to re-send D1 or D1\*, i.e., with an NDI value, which is toggled compared with the NDI, which was

used for transmission of D2, and hence with NDI=0. Further support for such features may also be found at least at [0062] of Applicants' published application (2007/0115894).

Thus, the applied combination of Kuchibhotla and Dudley clearly does not teach and/or suggest the feature(s) added of the amended independent Claims.

Independent Claims 8, 10-13, 16, and 21 include the same or similar limitations to those of Claim 1, and are allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claim 1.

Accordingly, the withdrawal of the rejection under 35 U.S.C. §103(a) with respect to Claims 1, 8, 10-13, 16, and 21 and allowance thereof are respectfully requested.

Dependent Claims 2, 5-7, 9, 14, 15, 19, and 20, are allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claims 1, 8, 13, 16, and 21 from which they depend. Further, dependent Claims 2, 5-7, 9, 14, 15, 19, and 20 recite additional patentable features. Accordingly, the withdrawal of the rejection under 35 U.S.C. §103(a) with respect to dependent Claims 2, 5-7, 9, 14, 15, 19, and 20, and allowance thereof are respectfully requested.

Claims 3 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kuchibhotla in view of Dudley as applied to Claims 1 and 16 above, and further in view of Ulug (U.S. Patent No. 4,312,065). Applicants respectfully traverse the rejection.

Ulug does not address the deficiencies of Kuchibhotla and Dudley in the independent claims. Furthermore, Dependent Claims 3 and 18 are allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claim 1, and Claim 16 from which Claim 18 depends. Further, dependent Claims 3 and 18 recite additional patentable features. Accordingly, the withdrawal of the rejection under 35 U.S.C.

§103(a) with respect to dependent Claims 3 and 18, and allowance thereof are respectfully requested.

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kuchibhotla in view of Dudley as applied to Claim 1 above, and further in view of Dottling et al. (U.S. Patent No. 7,249,303). Applicants respectfully traverse the rejection.

Dottling does not address the deficiencies of Kuchibhotla and Dudley in the independent claims. Furthermore, dependent Claim 4 is allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claim 1 from which it depends. Further, dependent Claim 4 recites additional patentable features. Accordingly, the withdrawal of the rejection under 35 U.S.C. §103(a) with respect to dependent Claim 4, and allowance thereof is respectfully requested.

Claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kuchibhotla in view of Dudley as applied to Claim 16 above, and further in view of Kohno (U.S. Application No. 2003/0120802). Applicants respectfully traverse the rejection.

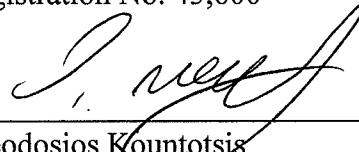
Kohno does not address the deficiencies of Kuchibhotla and Dudley in the independent claims. Furthermore, dependent Claim 17 is allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claim 1, and Claim 16 from which it depends. Further, dependent Claim 17 recites additional patentable features. Accordingly, the withdrawal of the rejection under 35 U.S.C. §103(a) with respect to dependent Claim 17, and allowance thereof is respectfully requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that all Claims presently pending in the application, namely, Claims 1-21, are believed to be in condition for allowance.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to contact the undersigned.

Respectfully submitted,

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